APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/730,676	12/06/2000	J. David Schaffer	US000322	8800

24737 7590 02/09/2005		EXAMINER
PHILIPS INTELLECTUAL PROPERTY & STANDARDS		MANNING, JOHN

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P.O. BOX 3001	2614	
BRIARCLIFF MANOR, NY 10510		

DATE MAILED: 02/09/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) FROM
THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed
  after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any
  earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 September 2004*.

2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is
closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☐ Claim(s) *1, 3, 4, 6-12, 14-16, 18-22* is/are pending in the application.

   4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☐ Claim(s) _____ is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

   Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

   Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

   a)☐ All   b)☐ Some * c)☐ None of:

   1.☐ Certified copies of the priority documents have been received.

   2.☐ Certified copies of the priority documents have been received in Application No. _____.

   3.☐ Copies of the certified copies of the priority documents have been received in this National Stage
   application from the International Bureau (PCT Rule 17.2(a)).

   * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
   Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
   Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application (PTO-152)
6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments with respect to claims 1, 3, 4, 6-12, 14-16 and 18-22 have

been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all

obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set
> forth in section 102 of this title, if the differences between the subject matter sought to be patented and
> the prior art are such that the subject matter as a whole would have been obvious at the time the
> invention was made to a person having ordinary skill in the art to which said subject matter pertains.
> Patentability shall not be negatived by the manner in which the invention was made.

3.   Claims 1, 3, 4, 6-12, 14-16, 18-22 are rejected under 35 U.S.C. 103(a) as being

unpatentable over Darbee et al. in view of Hendricks (US Pat No 5,798,785).

In regard to claim 1, the Darbee reference discloses a program guide on a

remote control display. The claimed limitation of "at least one user interface mechanism

adapted to interact with the user" is met by met by Figure 1. The keyboard 15 and

visual display 14 act as a user interface mechanism. The claimed limitation of "a

processing device" is met by microcontroller 28. The claimed limitation of "presenting

the at least one real-time event to the user at the user interface mechanism" is met by

the displayed program guide. (Col 9, Lines 39-43). The Darbee reference is silent with

respect to the recommendation being determined by a weighting function based on

when the real-time event is to begin and end relative to the user's current time to yield a

list of real-time event recommendation. Hendricks teaches the use of a weighting

function based on when the real-time event is to begin and end relative to the user's

current time to yield a list of real-time event recommendation so as to provide a

recommendations of upcoming shows may be of interest to the viewer. "The TIME

criteria 1162 allows a viewer to choose the preferred time of day, the preferred duration

(in 30 minute increments up to 2 hours), and the preferred day of the week. An

alternative embodiment would allow the viewer to select up to X hour time periods for a

certain day in which to search" (Col 31, Lines 58-63). Based on the start time of the

program, the duration of the program would indicate the end time of the program. The

selection list is show in Figure 11e. Consequently, is would have been clearly obvious to

one of ordinary skill in the art to modify Darbee with the use of weighting function based

on when the real-time event is to begin and end relative to the user's current time to

yield a list of real-time event recommendation so as to provide a recommendations of

upcoming shows may be of interest to the viewer.

In regard to claim 3, Darbee discloses "the recommendation is a function of a

user profile". "FIG. 2 shows a "predictive agent list" or "viewed item list" which may be

generated as a screen display 210. Data is automatically stored in this predictive agent

list by the apparatus of the invention, whenever a program is watch for a given period of

time, for example, 5 or more minutes. In this way, a record is kept of the user's viewing

habits so that the apparatus can be guided to make a prediction of which upcoming

shows may be of interest to the viewer" (Col 2, Lines 33-40).

In regard to claim 4, Darbee discloses "the recommendation is a function of a

user-selected category" as shown in Figure 6a. "FIGS. 6a-6c show screen displays

which enable the user to exercise the features of the invention. Specifically, FIG. 6a is

a Predictive Agent Main Menu screen accessed for example via the normal hierarchical

menu system of the DSS.RTM. satellite television system. The screen display of FIG.

6a has two "softkeys" labelled "Request a Suggestion" and "Edit User Information",

respectively. Selecting "Request a Suggestion" causes a prediction operation to be

performed, and brings up the screen display of FIG. 6b" (Col 5, Lines 7-14).

In regard to claim 6, Hendricks discloses a minimum and maximum

recommendation value for the show as can be see in Figure 11e. If a show did not

meet the minimum recommendation value, it would not be on the list. If the show had

the maximum value, it would be number 1. Furthermore, Hendricks discloses the

criterion and/or weighted factor to be a function of a current time, start time and

duration. "The TIME criteria 1162 allows a viewer to choose the preferred time of day,

the preferred duration (in 30 minute increments up to 2 hours), and the preferred day of

the week. An alternative embodiment would allow the viewer to select up to X hour time

periods for a certain day in which to search" (Col 31, Lines 58-63). Based on the start

time of the program, the duration of the program would indicate the end time of the

program.

In regard to claim 7, Darbee discloses that the apparatus is a remote and the

processing device is internal to the remote as shown in Figures 1 and 2 (Col 7, Lines 5-

26).

In regard to claims 8 and 9, the disclosed device is for use in a broadcast

environment; therefore, the real-time event is broadcasted content and is located at a

location external to that of the user.

In regard to claim 10, Hendricks discloses the use of a "surf ring" in which only recommended events an assigned to the "surf ring" as shown in Figure 11e. "If the viewer desires to view a list of all of these selections and/or corresponding abstracts, the viewer may select the VIEW option 1172 in the main menu 1130. Upon selection of the view option, the microprocessor 602 instructs the selection list menu 1174, as shown in FIG. 11e, to be displayed on the screen. The viewer can scroll down the list by using the cursor and select the desired movie by clicking on the desired program indicated by cursor or highlight. In FIG. 11e, for example, the viewer has selected the John Wayne movie GREEN BERETS. After making the selection, the program is displayed on the screen" (Col 32, Lines 33-43).

In regard to claim 11, Darbee discloses that the presenting occurs via a graphical user interface including an EPG. The "display 'window' views a virtual program information grid with time as the lateral axis and channel, program or content source as the vertical axis. Each screen preferably displays information for one half-hour of the 24-hour period" (Col 9, Lines 39-43).

In regard to claim 12, the claimed limitation of "a display adapted to provide user interface elements to the user" is met by Figure 1, Item 14. The claimed limitation of "a communication outlet adapted to communicate with the consumer electronics device" is met by the RF transceiver circuit 48 of the remote control unit 10 as shown in Figure 2. The claimed limitation of "a processor" is met by microcontroller 28. The claimed limitation of determining "information regarding data content available to be experienced using the consumer electronics device" is met by the displayed program guide. (Col 9,

Lines 39-43). The claimed limitation of causing "the display to communicate the

information to the user" is met by Figures 1 and 2. The "display 'window' views a virtual

program information grid with time as the lateral axis and channel, program or content

source as the vertical axis. Each screen preferably displays information for one half-

hour of the 24-hour period" (Col 9, Lines 39-43). The Darbee reference is silent with

respect to the recommendation being determined by a weighting function based on

when the real-time event is to begin and end relative to the user's current time to yield a

list of real-time event recommendation. Hendricks teaches the use of a weighting

function based on when the real-time event is to begin and end relative to the user's

current time to yield a list of real-time event recommendation so as to provide a

recommendations of upcoming shows may be of interest to the viewer. "The TIME

criteria 1162 allows a viewer to choose the preferred time of day, the preferred duration

(in 30 minute increments up to 2 hours), and the preferred day of the week. An

alternative embodiment would allow the viewer to select up to X hour time periods for a

certain day in which to search" (Col 31, Lines 58-63). Based on the start time of the

program, the duration of the program would indicate the end time of the program. The

selection list is show in Figure 11e. Consequently, is would have been clearly obvious

to one of ordinary skill in the art to modify Darbee with the use of weighting function

based on when the real-time event is to begin and end relative to the user's current time

to yield a list of real-time event recommendation so as to provide a recommendations of

upcoming shows may be of interest to the viewer.

In regard to claim 14, Darbee discloses that the consumer electronics device is a television.

In regard to claim 15, Darbee discloses that the consumer electronics device is an Internet browsing device. "In embodiments where the remote control unit 10 is used in conjunction with a personal computer or web computer, the data stored may also include an internet address or URL designation stamp" (Col 10, Lines 20-23).

In regard to claim 16, Darbee discloses that the information provided comprises an electronic program guide. The "display 'window' views a virtual program information grid with time as the lateral axis and channel, program or content source as the vertical axis. Each screen preferably displays information for one half-hour of the 24-hour period" (Col 9, Lines 39-43).

In regard to claim 18, the claimed limitation of an interface mechanism that provides content to the user and receives input from the use is met by Figure 1. The keyboard 15 and visual display 14 act as a user interface mechanism. The claimed limitations of "a communication facility adapted to receive the content from an external provider" and "a tuning facility for selecting the content to be received via the communication facility" are met by the RF transceiver circuit 48 of the remote control unit 10 as shown in Figure 2. The claimed limitation of a processor "calculating at least one recommended piece of content from amongst a plurality of available pieces of content" is met by Figure 2. , Once "data indicative of the particular viewing habits, content selection characteristics or interests of a particular remote control user or group of users is transmitted to the content provider or host system, the content provider or

host system may tailor additional programming, advertising or other content to be provided to the remote control unit 10" (Col 10, Lines 32-38). The Darbee reference is silent with respect to the recommendation being determined by a weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation. Hendricks teaches the use of a weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation so as to provide a recommendations of upcoming shows may be of interest to the viewer. "The TIME criteria 1162 allows a viewer to choose the preferred time of day, the preferred duration (in 30 minute increments up to 2 hours), and the preferred day of the week. An alternative embodiment would allow the viewer to select up to X hour time periods for a certain day in which to search" (Col 31, Lines 58-63). Based on the start time of the program, the duration of the program would indicate the end time of the program. The selection list is show in Figure 11e. Consequently, is would have been clearly obvious to one of ordinary skill in the art to modify Darbee with the use of weighting function based on when the real-time event is to begin and end relative to the user's current time to yield a list of real-time event recommendation so as to provide a recommendations of upcoming shows may be of interest to the viewer.

In regard to claim 19, Darbee discloses that the remote is coupled to a television. The reference discloses that "the communication facility comprises at least one of an antenna or a cable connection". "In accordance with a presently preferred form of the present invention, a tap antenna unit may be coupled to the set-top box or television

tuner, or to a cable feeding the set-top box or television tuner" (Col 9, Lines 1-4). In addition to the display 14, of Figure 2, the television screen is inherently an interface mechanism.

In regard to claim 20 and 21, the reference discloses when "the user input is a channel up button actuation, but the automatic tuning does not go to the next channel up in sequence from a current channel" and "the user input is a channel down button actuation, but the automatic tuning does not go to the next channel down in sequence from a current channel". When "the CHANNEL Up or CHANNEL Down keys are pressed, the remote will not output a channel up or down command, but rather will substitute a "direct tune" command to the next higher or next lower numeric channel" (Col 10, Lines 3-7).

In regard to claim 22, The Darbee reference fails to explicitly discloses, when "the user input is a power on actuation and the automatic tuning does goes neither to a last channel previously viewed nor to a default channel"; however, it is submitted that it would have been clearly obvious to one of ordinary skill in the art to implement Darbee with automatically switch a recommendation screen upon power up (i.e. neither to a last channel previously viewed nor to a default channel) to so as to increase the ease of use. The combined teaching fails to explicitly discloses, "automatically tuning the tuning facility to receive the recommended piece of content". However, the examiner takes OFFICIAL NOTICE that it is notoriously well known in the art to "automatically tuning the tuning facility to receive the recommended piece of content" so as to increase the ease of use. Consequently, it would have been clearly obvious to one of ordinary skill in the

art to implement the combined teaching with "automatically tuning the tuning facility to

receive the recommended piece of content" so as to increase the ease of use.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in

this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37

CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within

TWO MONTHS of the mailing date of this final action and the advisory action is not

mailed until after the end of the THREE-MONTH shortened statutory period, then the

shortened statutory period will expire on the date the advisory action is mailed, and any

extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

the advisory action. In no event, however, will the statutory period for reply expire later

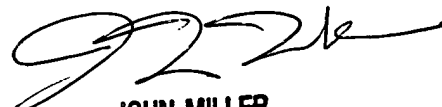than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to John Manning whose telephone number is 703-305-

0345. The examiner can normally be reached on M-F: 8:00 - 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, John W Miller can be reached on 703-305-4795. The fax phone number for

the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

published applications may be obtained from either Private PAIR or Public PAIR.

Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic

Business Center (EBC) at 866-217-9197 (toll-free).

JM
February 4, 2005

JOHN MILLER
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2600